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**To:** Hamayasu, Toru  
**Sent:** 10/1/2009 9:23:46 AM  
**Subject:** APTA Legislative Update - October 1, 2009

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## APTA Legislative Update

Thursday, October 1, 2009

### **Congress Passes One-Month Continuing Resolution to Extend SAFETEA-LU and Transportation Appropriations-Efforts to Enact a Longer Term Extension of SAFETEA-LU Continue-Senate EPW Committee Releases Climate Change Bill**

Just hours prior to the expiration of Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU), and the end of fiscal year (FY) 2009, the U.S. Senate passed a Continuing Resolution (CR) to extend funding for all federal programs for one month. The CR also includes a one-month extension of transit and highway authorization law (SAFETEA-LU), but the debate on a longer term extension is expected to continue, with action possible in the coming days. The CR, which was passed by the U.S. House of Representatives last week, was attached to H.R. 2918, the Conference Report for the FY 2010 Legislative Branch appropriations bill. The CR was required because Congress was not able to enact any of the appropriations bills prior to the onset of FY 2010, and efforts to enact a longer term extension for SAFETEA-LU prior to the deadline fell short.

The CR both authorizes and appropriates funds for public transportation programs through October 31, 2009. The funding levels made available for transit programs in the CR are equivalent to 1/12 of the funds made available under SAFETEA-LU for FY 2009.

Efforts by the U.S. Senate to pass a three-month extension of SAFETEA-LU stalled as legislators tried to reach an agreement to cancel a scheduled \$8.7 billion rescission of highway contract authority. On Wednesday, September 23, the U.S. House of Representatives passed H.R. 3617, The Surface Transportation Extension Act, to provide a three-month extension of all SAFETEA-LU authorized programs, including public transportation programs. The legislation passed, despite objections from Republican leadership, by a bi-partisan vote of 335-85. The legislation would have provided funding for three months for all transit programs at the levels authorized in FY 2009. In addition, it would have directed the Federal Transit Administration (FTA) to apportion funds for the three-month period. The legislation did not, however, include the provision to prevent the rescission of \$8.7 billion in contract authority for highway programs.

With time running out prior to the expiration of SAFETEA-LU, the leadership of the Senate Environment and Public Works Committee dropped their insistence on an 18-month extension of SAFETEA-LU, in favor of the three-month bill passed by the House, with new language added to repeal the rescission. If the alternative version had passed the Senate, it would have been returned to the House for final approval. To satisfy Congressional budget rules, however, the legislation needed to include funding to offset the negative impact on the budget. Proposals to offset the repeal of the rescission with funds from the American Recovery and Reinvestment Act (ARRA), or the Troubled Asset Relief Program (TARP), were met with objections from House negotiators and a few Senate Republicans. These objections prevented consideration of the three-month extension bill on the Senate floor prior to the

expiration of SAFETEA-LU by midnight of September 30. Therefore, the one-month extension included in the CR became law.

Despite their failure to meet the deadline for the expiration of SAFETEA-LU, Senate leaders have pledged to continue to push for the enactment of a longer extension that restores the lost highway contract authority caused by the \$8.7 billion rescission. In the coming days, if an agreement between the House and Senate is reached, an extension could pass that will replace the CR. It is not clear how long such an extension might be. In the meantime, House Transportation and Infrastructure Committee Chairman James Oberstar continues to push for the passage of a full, six-year authorization bill as soon as possible.

### **House and Senate Pass Transportation-HUD Appropriations Legislation**

As mentioned above, the CR signed into law by President Obama on September 30 provides funds to continue federal transportation programs at FY 2009 levels through October 31. The House and Senate have both passed H.R. 3288, the FY 2010 Transportation-HUD (THUD) Appropriations bill. However, the bill has not been sent to conference to reconcile the differences between each version. While House and Senate leaders have indicated that they hope to pass the 2010 THUD bill as a stand-alone measure in the coming days, House Appropriations Chairman David Obey (D-WI) has indicated that it could also become the vehicle for a large omnibus appropriations bill.

The Senate voted September 17 by a margin of 73-25 to pass its version of the FY 2010 Transportation-HUD (THUD) appropriations bill (H.R. 3288). The Senate version of the bill contains \$11.07 billion for public transportation programs, which is \$590 billion more than the House version, and \$840 million more than enacted in FY 2009. The House provides \$10.48 billion for transit programs in FY 2010. The Senate bill also includes \$1.2 billion for the High Speed Rail Program, as opposed to the \$4 billion provided in the House bill.

The significant funding difference between the House and Senate versions is the Senate's substantial increase in funding for the Capital Investment Program for New Starts and Small Starts. The Senate bill provides \$2.307 billion, \$480 million more than the House bill and is \$489 million more than last year's amount, while the House bill provides \$1.827 billion for the program.

Funding for the formula and bus programs is identical in each bill at slightly over \$8.343 billion. Both bills include an additional \$150 million for capital grants for Washington Metropolitan Area Transportation Authority (WMATA), as authorized last year in the Passenger Rail Investment and Improvement Act of 2008 (PRIIA).

Both bills also reduce the level of funds available for the Bus and Bus Facilities Program, providing \$584 million - \$300 million less than the FY 2009 level. In the House version, the FTA is directed to distribute half of the discretionary bus and bus facilities funds that are not earmarked to projects that meet Transit Investments for Greenhouse Gas and Energy Reduction (TIGGER) requirements under ARRA. Funds that are not earmarked under the Bus and Bus Facilities program, and are not used for TIGGER grants, would be available for allocation by the FTA. The Senate bill does not include a similar restriction, but separately provides an additional \$100 million in new funding for the TIGGER program.

Another provision that will require reconciliation is the level of funding for high speed and intercity passenger rail. The House appropriates \$4 billion in comparison to the Senate appropriation of \$1.2 billion. The Senate bill provides full funding of \$50 million for the authorization included in Sec. 105 of the Rail Safety Improvement Act of 2008 (RSIA) for deployment of Passenger Train Control (PTC) systems. The House bill did not provide funding for PTC. This is in addition to a provision that allows the Federal Railroad Administration to retain \$50 million of the intercity and high-speed rail funding for research and demonstration activities that will support the development of high-speed rail, including the engineering and development of high-speed rail locomotives.

Finally, the Senate bill, separately and in addition to the funding provided for FTA programs, allocates \$1.1 billion for a competitive multimodal grant program modeled after the Transportation Investment Generating Economic Recovery (TIGER) program enacted through ARRA. This discretionary grant program will be awarded on a competitive basis for surface transportation projects of national, regional, or metropolitan significance.



	(Millions)	(Millions)	(Millions)
Total New Budget Authority All Programs	10,231.2	10,483.7	<b>Program</b>
Total New Budget Authority All Programs	10,231.2	10,483.7	11,065.6
Formula Programs Total	8,260.6	8,343.2	8,343.2
§ 5307 Urbanized Area (a)	4,552.2	4,757.1	4,757.1
§ 5311 Rural Area (b) <sup>1</sup>	538.2	607.0	607.0
§ 5310 Elderly and Disabled	133.5	140.7	140.7
§ 5317 New Freedom	92.5	92.5	92.5
§ 5308 Clean Fuels Formula	51.5	61.5	61.5
§ 3038 Over-the Road Bus	8.8	10.8	10.8
§ 5309 Fixed-Guideway Modernization	1,666.5	1,756.1	1,756.1
§ 5309 Bus and Bus Facilities	884.0	584.02	584.0
§ 5305 Planning	113.5	113.5	113.5
§ 5316 Job Access and Reverse Commute	164.5	164.5	164.5
§ 5320 Alternative Transportation in Parks	26.9	26.9	26.9
§ 5335 National Transit Database	3.5	3.5	3.5
§ 5339 Alternatives Analysis	25.0	25.0	25.0
§ 5309 Capital Investment Programs Total	1,809.3	1,827.3	2,307.3
Research and University Centers	67.0	65.7	67.7
FTA Operations	94.4	97.5	97.5
WMATA Preventative Maintenance and Capital <sup>3</sup>	0.0	150.0	150.0
TIGGER Grants	0.0	0.0	100.0

<sup>1</sup>Includes funds for Growing States and High Density States under 49 USC §5340

<sup>2</sup> 50% of funds in House bill remaining after earmarks are subtracted must be used for Transit Investments for Greenhouse Gas and Energy Reduction (TIGGER) grants

<sup>3</sup> Funds separately authorized under the Passenger Rail Investment and Improvement Act of 2008

### **Senate Climate Bill Introduced-Funding Levels Will Be Assigned Soon-APTA Members Urged to Continue Contacting Senators**

Chairman Barbara Boxer (D-CA) of the Senate Environment and Public Works Committee (EPW) and Chairman John Kerry of the Senate Foreign Relations Committee have introduced a new climate bill. The newly released draft bill does not yet specify investment levels, but negotiations to assign emission allowances, the source of funding under a cap-and-trade program, are well underway. Boxer's EPW Committee plans to hold a markup later this month, and the Senate Finance Committee led by Chairman Max Baucus (D-MT) will become engaged later in the fall.

While the Boxer-Kerry bill does not specify funding levels, the proposal outlines the structure of potential transit and transportation investments and introduces significant new planning provisions with regard to greenhouse gas emissions. Under the draft bill, some level of emission allowances would be set aside for urban and rural transit formula funding (5307/5340 and 5311), and a separate fund would be provided for a new competitive program for all types of emission-reducing transportation investments, including transit projects and transportation planning.

Each percent of emission allowances could be worth between \$600 million and \$1 billion in new annual investment, which will ultimately be determined by the market value of those allowances under the cap and trade program. For example, if two percent of emission allowances were dedicated to transit formula funds, those allowances could be worth \$1.2 billion or more annually. APTA has called for up to 10 percent of allowances to be invested in transit and transportation.

For public transportation to receive significant funding under climate legislation, the Senate bill must significantly improve on the Waxman-Markey bill passed by the House in June. Transit is eligible for less than \$1 billion a year of allowance revenue under the House bill. This level of funding is not acceptable

to APTA given that transportation accounts for one-third of carbon dioxide emissions in the U.S., and the sale of emission allowances from fuel consumed for road and highway use is expected to generate more than \$22 billion annually by 2015.

For more information on climate legislation, the following resources are available:

New fact sheet on the revenue implications of climate legislation for the transportation sector ([click here](#))

APTA Special Climate Alert ([click here](#))

Sample Letter to Senators ([click here](#))

#### Action Alert

APTA members should contact their Senators, particularly members of the Committee on Environment and Public Works and the Committee on Finance.

Advocacy efforts in the next two weeks are critical. When you talk to your Senators, please ask the following:

- \* Urge the Senator or their staff to contact Chairman Barbara Boxer (D-CA), Chairman John F. Kerry (D-MA) and other Senate leaders to express support for transit investment in a climate bill.
- \* Explain that transit investment will bring climate revenues back to your state and will accelerate emission reductions from the transportation sector.
- \* Express support for transit formula funding within the climate bill and offer examples of how funding could improve transit service in your community (e.g. new hybrid or alternative fuel buses could expand service and reduce operating costs).
- \* Ask your Senator to co-sponsor CLEAN-TEA (S. 575) which would set-aside up to 10 percent of emission allowances for transportation investments, including transit.



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